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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,500	09/19/2003	Robert Michael Trotter	TROT1	8974
6980	7590	03/01/2006	EXAMINER	
TROUTMAN SANDERS LLP 600 PEACHTREE STREET, NE ATLANTA, GA 30308			MANAF, ABDUL	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/666,500

Applicant(s)

TROTTER, ROBERT MICHAEL

Examiner

Abdul Manaf

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/13/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

The following office action is in response to the Request for Continued Examination (RCE), Remarks and Claims filed on October 13, 2005. No amendments are made to the claims. Claims 1 – 10 and 13 are pending in the application. Claims 1 – 10 and 13 are rejected as set forth below.

***Claim Rejections - 35 USC § 112***

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Claim 13 recites the limitation "said structural waterproofing system's open space or conduit" in lines 9 and 10. There is insufficient antecedent basis for this limitation in the claim 13.

***Claim Rejections - 35 USC § 102***

**Claims 1 and 13 stand rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Patent No. 3,975,467 to Beck as set forth in the previous office action.**

Regarding claim 1, Beck discloses a drying system for a foundation waterproofing system, said waterproofing system includes an open space or conduit 6, 10 for receiving and communicating water away from the foundation of a structure, the drying system comprising: an air inlet, i.e. the opening connecting the conduit to the duct 30, in communication with said waterproofing system for communicating air through said waterproofing system's open space or conduit,

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and to the foundation and soil in the area proximate to said foundation, an air outlet, i.e. the opening connecting the conduit to the duct 31, in fluid communication with said waterproofing system's open space or conduit, and an air circulator 38 for circulating air between said air inlet and said air outlet throughout said waterproofing system's open space or conduit, wherein the circulated air is capable of removing moisture and gas from said foundation and also from said waterproofing system through said air outlet. This is so because the moisture seeps through said walls and into said basement. Then, the moisture is removed with the waterproofing system. Thus, the foundation area and basement will have the moisture removed therefrom.

Regarding claim 13, Beck discloses a method for drying structural waterproofing system of a structure having a floor 4 and at least one wall 3, said wall resting on a foundation 5, the structural waterproofing system located in proximity of said foundation, the method comprising the steps of providing an air circulator 38 in fluid communication with said structural waterproofing system, and circulating air through an open space or conduit of said structural waterproofing system, and removing moisture and gas from said structure and system, wherein moisture and gas are transported away from said waterproofing system and the foundation.

***Claim Rejections - 35 USC § 103***

**Claims 2 – 5 and 8 – 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 3,975,467 to Beck in view of the U.S. Patent No. 4,185,429 to Mendola as set forth in the previous office action.**

Regarding claim 10, Beck discloses a drying system for structural waterproofing system for a structure having a floor 2 and at least one wall 3, said wall resting on a foundation 5, the drying system comprising a waterproofing system's open space or conduit 6, 10 for draining water from the enclosure, said waterproofing system's open space or conduit having a periphery defining an interior; an air inlet, i.e. the opening connecting the conduit to the duct 30, in fluid communication with said interior of said waterproofing system's open space or conduit, an air outlet, i.e. the opening connecting the conduit to the duct 31, in fluid communication with said waterproofing system's open space or conduit, and an air circulator 38 for circulating air between said air inlet and said air outlet throughout said waterproofing system's open space or conduit, and wherein the circulated air removes moisture and gas from said waterproofing system's open space or conduit, foundation and exits through said air outlet. This is so because the moisture seeps through said walls and into said basement. Then, the moisture is removed with the waterproofing system. Thus, the foundation area and basement will have the moisture removed therefrom.

Beck does not specifically disclose that said waterproofing system's open space or conduit is located at the sub-floor area in proximity of the location where

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said wall rests on said foundation. Mendola teaches that it is known to provide a waterproofing system's open space or conduit at a sub-floor area where a wall rests on its foundation, figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the open space or conduit in the sub-floor region, because by recessing the drain segments into the sub-floor are, they will be less obtrusive. Therefore, the room will have a more pleasing esthetic appearance. Further, by having the open space or conduit located at the sub-floor level, any water that may be spilled on the floor, will more easily drain into the open space or conduit.

Regarding claims 2, Beck in view of Mendola disclose the basic claimed invention, wherein said air inlet is in communication with the interior of said enclosure and wherein said air circulator 38 is located proximal to said second end of said air duct. The inlet is in communication with the interior of the enclosure at least through hose 27.

Beck does not specifically disclose that said air circulator draws air from said interior of said enclosure through said drainage conduit. However, this is a functional statement. Therefore, as long as Beck's circulator is capable of performing the claimed function, it meets the claimed limitations. Therefore, since one having ordinary skill in the art knows that blowers often blow in two directions, it is known that Beck's blower is capable of performing the claimed function. Therefore, Beck's blower meets the claimed function. Further, this would be capable of allowing air to be drawn into the system through said hose.

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Regarding claim 3, Beck in view of Mendola disclose the basic claimed invention, wherein said waterproofing system's open space or conduit has a remote first end, i.e. the end near duct 30, and an opposing second end, i.e. the end near duct 31, said air inlet located in the proximity of said remote first end of said waterproofing system's open space or conduit and said air outlet located in the proximity of said opposing second end of said waterproofing system's open space or conduit, wherein air is circulated through the interior of said waterproofing system's open space or conduit and to the foundation.

Regarding claim 4, Beck in view of Mendola disclose the basic claimed invention, further comprising an air duct 30 having first and second ends, wherein said first end communicates with said air outlet of said waterproofing system's open space or conduit and said second end communicates with the exterior of said enclosure. The examiner would like to point out that since the duct is connected to the conduit, the duct is in communication with everything the conduit is in communication with.

Regarding claims 5, Beck in view of Mendola disclose the basic claimed invention, wherein said air inlet is in communication with the interior of said enclosure and wherein said air circulator 38 is located proximal to said second end of said air duct. The inlet is in communication with the interior of the enclosure at least through hose 27.

Beck does not specifically disclose that said air circulator draws air from said interior of said enclosure through said drainage conduit. However, this is a functional statement. Therefore, as long as Beck's circulator is capable of

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performing the claimed function, it meets the claimed limitations. Therefore, since one having ordinary skill in the art knows that blowers often blow in two directions, it is known that Beck's blower is capable of performing the claimed function. Therefore, Beck's blower meets the claimed function. Further, this would be capable of allowing air to be drawn into the system through said hose.

Regarding 8, Beck and Mendola disclose the basic claimed invention, wherein the system further comprises a humidistat 40 for sensing the amount of moisture in said waterproofing system's open space or conduit or said enclosure, said humidistat activating the operation of said air circulator.

Regarding claim 9, Beck in view of Mendola discloses the basic claimed invention, except for specifically disclosing the use of a timer for programming the operation of said air circulator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a timer into Beck's invention, because the use of timers to control blowing devices is notoriously well known in the art. The timer eliminates the need for a person to control when and how long the blower will run. Further, the humidistat functions in a similar manner as a timer because it will control when the blower unit will turn on and off.

**Claim 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 3,975,467 to Beck in view of the U.S. Patent No. 4,185,429 to Mendola and further in view of the U.S. Patent No. 2002/0073628 to Dextras as set forth in the previous office action.**



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Regarding claim 6, Beck and Mendola disclose the basic claimed invention except for specifically disclosing that said air circulator is a fan.

Dextras teaches that it is known to use a fan to circulate air through a building ventilation system. It would have been obvious to one having ordinary skill in the art to use a fan to circulate the air through Beck's invention, because a fan will provide sufficient airflow through the duct and conduit system. Further, most fans can be used to blow air in two directions. Therefore, one could use the fan to suck the air out of the system, or to blow the air through the system.

**Claim 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 3,975,467 to Beck in view of the U.S. Patent No. 6,279,279 to Larimore as set forth in the previous office action.**

Regarding claim 7, Beck and Mendola disclose the basic claimed invention except for specifically disclosing the use of a dehumidifier for dehumidifying the air circulated by said air circulator. Larimore teaches that it is known to use a dehumidifier to dehumidify circulated air in a building structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a dehumidifier in Beck's invention, because, as is known in the art, the dehumidifier will remove moisture from the air in Beck's enclosure. Therefore, one will not have to worry about mildew and mold growing in the enclosure.

***Response to Remarks/Arguments***

In regard to applicant's remarks filed on October 13, 2005, there are no amendments made to the claims; and examiner has fully considered the remarks.

Applicant has modified Figure 1 to further define a preferred embodiment of the invention to identify that floor (applicant, Fig. 1: 52) exists above the sub floor (applicant, Fig. 1: 50); and the drainage system is located underneath the basement and wall location (Remarks, pg. 7). Examiner has already presented the above-mentioned limitations disclosed by the secondary reference mentioned in the previous office action (page 6, lines 8-10).

Regarding claim 13, applicant fails to explain the limitation "said structural waterproofing system's open space or conduit" of claim 13, lines 9 – 10, even in the latest specification submitted on October 13, 2005. Applicant explains air circulation in a structure and drainage system very generally, and does not specifically emphasize on the above mentioned limitation that was rejected under 35 U.S.C. 112, second paragraph.

Regarding the paragraph starting with "it is noted that Applicant..." in the remarks, applicant elaborates on a crawl space that it is typically the area underneath a floor and also located near the foundation; and that the waterproofing systems are known for being installed in crawl spaces. However examiner has pointed out toward the crawl place (Mendola, Fig. 2), examiner respectfully presents another source regarding a crawl space for waterproofing systems installation. Beck discloses a sub-floor comprising a crawl space

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underneath the sub-floor (Fig. 1: 50), while Larimore discloses a sub-floor (column 1, lines 46-50) and spacers below the top layer of a floor (column 2, lines 33-37) creating a ventilation system to dry a waterproofing system. Based upon the above-mentioned prior art references, examiner respectfully further stands the rejections.

In regard to applicant's argument that Beck does not disclose a drainage system for a waterproof system, which is located in the sub floor area (Remarks, Page 7, Paragraph No. 4), the examiner respectfully disagrees. Beck discloses waterproofing material (Fig. 3: 17, Abstract) for a floor (Figs. 1, 3: 4) having a sub-floor or basement (Fig. 1: 2) of a drainage system for a waterproof system. However Beck does not mention a waterproofing system, Beck discloses a waterproofing sealing material and a drainage channel (See Abstract). A waterproofing sealing material and a drainage channel obviously is used for drainage system and a waterproofing system. Therefore, examiner stands the above-mentioned rejection.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Manaf whose telephone number is 571-272-1476. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AM *A.M.*

02/15/2006



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